

**St. Mary Rehabilitation Working Group Meeting**  
**10:00 – 3:00 February 23, 2005**  
**Chinook Motor Inn**

**Welcome and Introductions:** Members Present: Randy Reed, Co-chair, Jim Rector, Marko Manoukian; Bud Mavencamp (alternate for Kevin Salsbery); Dolores Plumage; Gary Anderson; John Lacey; Randy Perez; Max Maddox; Larry Mires (Executive Director); Mike Barthel; Paul Tuss; Dave Peterson; Steve Page. Absent: Mike Tatsey, Kevin Salsbery; Lt. Governor John Bohlinger- on the tour of St. Mary with Senator Baucus.

Larry Mires introduced Jim Rector as his replacement on the working group. Jim is an attorney in Glasgow and a member of Two Rivers Economic Growth. Gary Anderson announced that Bill Oehmcke, Mayor of Chinook is replacing Diane Collins as his alternate.

Information packets were handed out including non-federal cost share numbers, information on project authorization; and itinerary of tour in Alberta in March.

**Review of January Meeting Notes:** Notes from January 5<sup>th</sup> meeting in Helena were approved without changes. John Lacey made the motion to approve, Max Maddox seconded, motion carried by consensus. Notes from January 26 meeting in Browning are still being transcribed.

**Updates and Progress Reports**

- State Legislative Update – Paul Azevedo
  - HB540 (\$10 million bonding authority) passed unanimously through the Long-Range Planning Appropriation Committee on Feb. 15<sup>th</sup>. Executive action was taken on Feb. 17<sup>th</sup>. Thanks to everyone who came down to testify for the bill.
  - Other St. Mary appropriation bills have passed out of their subcommittees and will be going before the full appropriation committee. The working group will be notified of those committee times.
  - Larry Mires let members know that outside interests may attempt to lower bonding limit for St. Mary Project. He requested working group member to ask 15-20 people to call 444-4800 and leave a message for House Appropriation Committee members asking them to leave the \$10 million for St. Mary and the money for Fort Belknap intact.
  - Dolores Plumage asked why funds for Ft. Belknap compact mitigation (\$9.5 million) were in the same bill as St. Mary's? Paul Azevedo, Larry Mires, and Paul Tuss concurred that HB540 is just the vehicle for bonding authority. All requests for general obligation bonds, including Ft. Belknap compact mitigation and St. Mary's, go into the same bill.
  - There was further discussion on Ft. Belknap compact. Paul Azevedo reminded everyone that the working group was not the forum for discussion of water rights or other compacting issues.

- Federal Legislation – Paul Azevedo

On behalf of the working group, Lt. Gov. Bohlinger delivered two 2006 federal appropriation requests to Montana's Congressional delegation while he was in D.C. during the week of Feb. 7th, 2005. A copy of the federal requests was emailed to each working group member.

- First request: Federal appropriation for \$6.25 million through the Dept of Interior:
  - \$3 million for the study money;
  - \$1.5 for the St. Mary Bridge replacement;
  - \$1 million for the environmental study upstream of diversion dam;
  - \$500,000 to assess the status of Blackfeet irrigation system;
  - \$250,000 for Blackfeet vocational programs related to the rehabilitation of St. Mary.

- Second request: \$1.5 million for St. Mary Bridge replacement through the federal Dept. of Transportation Community System Preservation Act. This second request is a backup in case funding request through Interior is rejected.
- Federal appropriations request was summarized in a February 9 memo from John Tubbs and emailed to all working group members on February 10.
- Paul Azevedo and John Tubbs met with representatives from Montana DOT to brief them on request for bridge funding. DOT recommended working group ask for \$2 million. They also said to be sure the request language included authorization to build approaches to the new bridge. Otherwise, we may find ourselves with authority to build a bridge, but without authority to build approaches to the bridge.
- Discussion of February 14 memo from Will Hammerquist (Lt. Governor's Chief of Staff) summarizing the Lt. Governor's meetings with members of Congressional Delegation and John Keys, Commissioner of USBR. Copy of memo was emailed to all working group members on February 15.
  - Steve Page was concerned, that as written, the memo makes it appear that Senator Burns was in favor of moving forward with authorization legislation, but there appeared to be no commitment to get the \$6.25 million. Paul Azevedo responded that DNRC shared similar concerns, but has not had the chance to get clarification from congressional staff.
  - Paul Azevedo noted both Senators agreed that moving forward with authorization language in this session of Congress is realistic. Paul noted that past discussions by the working group have touch on federal authorization language, but the group has not really dived into it. John Tubbs presented some thoughts on the topic in his February 9 memo.
  - Additional information can be found in meeting packets under the title "The Need to Seek New Project Authorization." The argument is summarized in 3 points.
    - Authorization Under the Reclamation Act of 1902 – Under the 1902 Reclamation Act, the Bureau of Reclamation is fully authorized to repair, rebuild, or replace the St. Mary Facilities. However, irrigators holding water contracts with Reclamation would be required to pay almost 100 percent of the replacement costs in the year they are incurred. These conditions in the 1902 authorization are in part contributing to the "crisis". Given these constraints, new authorization may be necessary to accomplish the goals of the working group.
    - 2006 Appropriations Request and Limited Authorization – If Congress simply appropriated the money under the current authorization, all \$6.25 million would be subject to repayment and Reclamation would perform the studies. Therefore, the 2006 appropriations requests include language that authorizes expenditure of the funds in accordance with the following constraints.
      - Funds are non-reimbursable,
      - Funds must be passed through to the State of Montana and the Blackfeet Tribe, and
      - Bureau of Reclamation is limited to 8% for overhead costs.
    - The Need to Seek New Project Authorization – Under the current federal authorization, Reclamation can rehabilitate the system and present a bill to the water contract holders. Changing the formula for repayment of capital costs in the main reason to seek new federal authorization. Some of the issues that need to be address include:
      - Cost Share: This is the bottom line issue. How will costs be shared between federal, state and local entities?
      - Multiple Uses: New authorization should recognize that the project benefits more than just irrigated agriculture. Municipal, recreation, fish and wildlife, and flood control are all benefits that are derived from the project. Federal

- authorization of these benefits will enlarge the repayment pool for capital expenditures and O&M.
- Water Rights: New authorization would need to include a disclaimer that nothing in the authorization affects ongoing federal water right compact negotiations.
- Lead Roles: Roles for Reclamation, Blackfeet Tribe, DNRC, working group, and Contract Holders, especially irrigation districts and the Joint Board of Control, need to be defined.
- \$10 million in bonding authority that Governor Schweitzer put on the table has really moved the issue forward. DNRC was anticipating that discussions on new authorization language would take place over the next year. If in fact, Montana's Congressional Delegation wants to move forward on new authorizing language this session, we probably only have a few weeks to start talking about it. DNRC and executive committee discussed this during their conference call on Friday, February 18.
- Larry Mires said it was important for everyone to think about it and get their thoughts and ideas to the executive committee. Otherwise, it is going to be another one of those last minute things that no one will have time for.
- Paul Azevedo noted that some members of the working group have been thinking about the issue of new authorization more than others. Informed discussion is going to require an education component for both members of the working group and the basin as a whole.
- National Water Resources Association Meeting in D.C. – Larry Mires
  - Dave Peterson moved to approve expenditure of up to \$10,000 in working group funds to cover trip expenses and registration for members attending NRWAC conference. Mike Barthel seconded the motion and it was approved by consensus.
- Irrigation Project Tour in Alberta – Paul Azevedo
  - Discussed agenda for the tour on March 21 and March 22. The next working group meeting is March 23<sup>rd</sup>.
- Executive Committee Teleconference – Randy Reed
  - Feb. 18<sup>th</sup> – reviewed agenda;
  - Discussed role of county commissioners in the working group;
  - Larry Mires is continuing research into working group becoming a legal entity;
  - Discussed need for all working group members to broaden their understanding of water rights compact, but we can not let working group be sidetracked by compact negotiations;
  - Discussed need for executive committee and general working group to hold strategic planning retreat. May want to have some expertise available to help in developing a strategic plan. Kent Heidt was mentioned as a possible resource.
- St. Mary working group Budget – Paul Tuss
  - Budget total: \$99,578.61. Working group received \$450 in 2005.
  - There have been no expenditures to date however, \$25,000 has been committed to engineering services.
  - As of Jan. 26, in-kind contributions (travel, time etc.) from working group members totaled \$47,309. This does not include trips to Helena for testimony before the legislature.
  - Gary Anderson noted the group has not reached their fund raising goal of \$166,750 and wanted to know the areas where they fell short. He asked for an accounting of contributors.
  - John Lacey asked if the group had developed a fundraising strategy of 2005? Does the group need to raise more money, less money or the same amount as last year? Larry Mires responded that

FY05 funding needs were dependent on funds received from the state. Until the level of state support is known, the group should plan on raising the same amount as last year.

- Meeting Between DNRC, USBR and Tribes - Paul Azevedo
  - Monthly intergovernmental conference call did not occur in January or February.
  - Randy Reed felt that a working group member should be present at future intergovernmental meetings.
  - Paul Azevedo explained that the project would require a lot of intergovernmental cooperation. Monthly calls are seen as an avenue for state, federal and tribal governments to develop a dialogue and brainstorm ideas for moving the project forward. Informal nature of the calls has allowed some trust to build up between the different governments. From the state's perspective, participation by a working group member would be fine. However, it may change the dynamics for some of the other participants who might then feel less free to talk openly.
  - DNRC will put the working group's request on the next intergovernmental meeting agenda.

**Continue Discussion and Reach Consensus Regarding Participation by County Commissioners on St. Mary Working Group:**

- Topic came up at January 26 working group meeting in Browning. As a County Commissioner, Dolores Plumage felt she needed a way to more formally recognize her involvement in the working group. This was handled through an exchange of letters. Blaine County sent a letter to Larry Mires notifying him that Dolores had been appointed as their representative to the group. Larry responded with a letter thanking the Commissioner's for appointing Dolores and noting that she is a great asset to the group.
- There was also discussion at the Browning meeting on the role of County Commissioners on the working group as a whole. Executive committee took up the discussion at their last meeting. They agreed that Dolores Plumage would contact the other County Commissioners in the Milk River Basin to see how they want to be involved or represented.
- Dolores has not had time to talk with commissioners from other counties since the executive committee meeting. She feels county governments can be a real assist to the project and that they need to stay involved. One possible way to do this would be to have the counties sign a Cooperative Memorandum of Agreement with the St. Mary working group.
- There was discussion on having Dolores serve as the representative for all the counties and the value of having all the county commissioners serve as Ex Officio members. Paul Tuss felt that MACO (Montana Association of Counties) is a significant force and it would benefit the working group to have them on board. He felt working group should follow Dolores' lead in how counties interact with the group.
- Gary Anderson reminded everyone that early discussions to not have county commissioners at the table were motivated by the desire to keep politics out of the process. He noted that awareness of the project has reached such a level that it may now be impossible to keep politics on the sidelines.
- Max Maddox feels there are a lot of interests with out a direct voice, but there is someone at the table with similar interests. The group has already ended up a lot bigger than he had hoped. He felt county commissioners should be included as Ex Officio members.
- Steve Page motioned to have one county commissioner represent all the counties. Max Maddox seconded the motion. Randy Perez noted that he was uncomfortable with supporting the motion because the other counties were not present for the discussion. Paul Tuss offered a clarification of Steve's motion; working group would extend an invitation to the counties to place someone on the working group. It would then be up to the counties to decide if they wanted Dolores to represent them or wanted some other arrangement. Steve accepted Paul's motion. After some discussion, Dolores

suggested the motion be tabled until after she has had a chance to talk with the other counties. Everyone agreed to table discussion.

- The working group will continue to discuss this and will reach consensus after obtaining more information.

**Report from Sarah Converse – Office of Senator Burns**

- Senate is in session; St. Mary still a priority for the Senator, but funding is very tight. Every agency is being reigned in. Appropriations request far outstrip available funding.
- Sarah will be the Senator's new liaison to the working group.

**Report from Mike Waite – Office of Representative Rehberg**

- Jason Begger will be handling legislation and request that come before the Energy & Water Subcommittee in the House of Representatives; contact him or Mike with questions.

**St. Mary Brochure:**

- Before breaking for lunch, Gary Anderson asked about status of brochure. He noted that the outreach subcommittee had been working on one, but the subcommittee tabled it. He was also aware that Marko Manoukian had been working on one. Gary has been promoting the project and needs to have something he can leave with people.
- Marko said he did not mind if the group used his brochure, but felt they should review it first. It may no longer be current.
- Outreach Subcommittee has not met in several months. Steve Page felt the subcommittee had been hampered by the lack of staff. Now that there is an Executive Director, they have someone to assign duties to. Randy Reed asked when the outreach subcommittee would meet again. Steve Page felt it would be appropriate for the subcommittee to meet for 10 or 15 minutes at the end of today's meeting.

**Presentation and Discussion on St. Mary Rehabilitation Phase 1 Report**

- Erling Juel (TD&H) gave a presentation on the phase 1 engineering review report titled "*St Mary Diversion Facilities Data Review, Preliminary Cost Estimate and proposed Rehabilitation Plan*" TD&H completed this report under contract with DNRC on behalf of the working group.
- Contract statement of work included the follow three tasks.
  1. Review all available engineering, geotechnical and environmental information prepared by the U.S. Department of Interior for the St. Mary Facilities;
  2. Conduct site inspections of the St. Mary Facilities to identify deficiencies and design concepts for replacement and/or rehabilitation of the St. Mary Facilities;
  3. Develop a report recommending priority areas of study necessary to identify the preferred alternative, environmental compliance and cultural resource requirements for replacement and/of rehabilitation of the St. Mary Facilities.
- Erling stated that the report was not intended to criticize or endorse Reclamation's previous work or to pass judgment on Reclamation's design approach or methodologies. In addition to reviewing all available previous reports, studies and investigations, TD&H conducted 3 site visits, and held fact-to-face meetings with Blackfeet Environmental staff, USBR staff and DNRC staff.
- TD&H's review of Reclamation's 2002/2003 "appraisal level" cost estimates were limited to obvious omissions, questionable quantities or unit prices, math errors, and inconsistencies. Scope of review was limited to the infrastructure from the St. Mary diversion dam to the last drop structure at the North Fork of the Milk River.
- TD&H indexed Reclamation's 2002/2003 cost estimates to 2007 (assumed start date for construction) using a 3% rate of inflation,

- Total “appraisal level” project cost ranged from \$119,622,600 (850 cfs) to \$127,035,100 (1000 cfs). Cost estimates included the following items.
  - Unlisted items – 10% to 15% - (Reclamation);
  - Contingencies – 25% - (Reclamation);
  - Non-contract costs – 37% - (Reclamation);
  - TERO fees – 5%;
  - Automation and electronic data acquisition; and
  - Provisions for a two-bank canal.
- Erling noted that at the “appraisal level”, construction costs are increased by 1.88 to 1.97 times.
- Scope of contract with DNRC did not include the time or budget for TD&H to scope out detailed alternatives to Reclamation’s proposed engineering plans. However, Erling felt there was a potential for savings in the following areas.
  - \$2.85 million on siphons depending on materials, construction methods and single vs. double barrels.
  - \$10.8 – \$13.0 million on rehabilitation of canal prism based on recent project experience.
  - \$12.9 - \$14.0 million on engineering fees (TD&H vs. Reclamation)
- TD&H recommend the rehabilitation effort be prioritized as follows
  1. St. Mary River bridge
  2. St. Mary River siphon
  3. Drops No. 4 and No. 5
  4. Diversion dam and canal headgates
- TD&H recommends the following studies:
  - Basin hydrology study including U.S. entitlements to water from the St. Mary and Milk Rivers;
  - Topographical survey along canal route;
  - Hydro-power considerations;
  - Environmental Compliance studies under the National Environmental Policy Act;
  - Geotechnical studies on slope stability near St. Mary siphon. One full year of data collection at a minimum.

Questions/Answers:

- **Q:** Steve Page asked how the new siphons would be supported across the river – will the new bridge support it? Do they need to determine that now?
  - **A:** Erling Juel – The firm designing the bridge will consider those questions before the decisions have to be made.
- **Q:** Steve asked if priority on slope stabilization is practical; i.e. the system has been there for years and slides are cleaned up annually with the system continuing to work. Is it significant enough to spend 50% of construction costs on?
  - **A:** In the case of the St. Mary River siphon crossing, it is significant and needs to be addressed because there is not a lot of flexibility for crossing the river; in the case of some slides along the canal there may be a chance of relocating the canal slightly to avoid those areas. \$24 million USBR estimate (of costs on this) might be conservatively high. Slides move slowly and are more of a maintenance issue.
- **Q:** Who is responsible if the studies and surveys aren’t concluded before the design phase is started? Who has expertise to do the studies?
  - **A:** TD&H has the expertise to do all the required studies, but they have only been contracted to do what they have done to this point. TD&H will have to sign another contract with DNRC to complete any new tasks.

- **Q:** John Lacey noted that the cost of the project divided by the number of acres served works out to about \$800 or \$900 per acre-foot of water. He wanted to know if that price can it be justified economically and socially - how would politicians look at it?
  - **A:** Erling Juel – You have to look at the rate of return. We are dependent on the system and we have to keep it going. As things progress, they (USBR) will start to zero in on more realistic cost figures – because of little information they are conservative at this time – it is their approach.
- **Q:** Has TD&H studied the possibility of providing year-around flows in the canal?
  - **A:** Erling Juel – From a maintenance standpoint it's difficult. Consider canal icing in slow water. If you had enough water in the winter coming down the St. Mary River to divert and push into the canal, it might be feasible. System is still getting water in the winter; it's just not being transported. Erling suggested improvements could be made to run the canal earlier and later in the seasons.
- **Q:** Steve Page said a large part of being successful is selling the idea of the project to the basin and he senses some level of complacency. Will TD&H be in a position to provide a cover sheet to place a little bit more of a sense of urgency regarding what needs to be done? There probably isn't an engineer in the world that wouldn't say this system would fail within the next five years. The working group needs some help from an engineering firm in cooperation with the USBR, to help us develop the sense of urgency.
  - **A:** Erling Juel – We need to put some kind of probability – and something needs to be done right away. Dave Peterson: I'll be very much surprised - if we could make the decision today to get started – if we could conclude rehabilitation before a major event takes place. Erling Juel: Our schedule is very aggressive – it would be nice to at least have some plans for replacement on the books. It doesn't take much to lose a construction year. Marko Manoukian: It is up to the working group members to raise the sense of urgency – it is our responsibility.
- Paul has copies of the TD&H engineering report available on CD.

**Call from Senator Baucus and Lt Gov. Bohlinger:**

- Touring the upper Project. Thanks to everyone working on this.

**Continue Discussion on Re-Forming as a Legal Entity – Larry Mires**

- Working group members have not responded to the questions Larry handed out at the January 26<sup>th</sup> meeting in Browning. He again urged anyone with thoughts, questions or comments about the working group reforming as a legal entity to contact him.
- He has not received a response from N. Dakota, Colorado or the Montana Attorney General's office. Larry is continuing with research:
- Gary Anderson asked if Anne Yates had been doing research on legal entities. Anne responded that she only checked into formation of an advisory committee by executive order. She said under that scenario, the group would be advisory only to the state.
- Dolores Plumage wanted to know why no one had responded to Larry's questions. Larry felt everyone maybe feeling a bit overwhelmed with all the current legislative activities.

**New Business - Subcommittee to Develop Long-range Strategic Plan**

- During their February 18 conference call, the executive committee discussed the need to develop a long-range strategic plan for where the group is going and how they will get there. Good portion of the last year has been spent being reactive rather than proactive.

- There was discussion on whether or not the strategic plan should be done by the executive committee, a subcommittee or the working group as a whole. Some members felt it would be more efficient and effective to have a small group work in a strategic plan. Others felt that the entire working group should be involved in the process. Also discussed pros and cons of holding retreat locally or away from the basin. There was also extensive discussion on how to do strategic planning.
- Steve Page passed out a memo outlining his thoughts on doing a strategic plan.
- Motion made by Max Maddox to extend the meeting to 3:30; John Lacey seconded; motion passed on consensus.
- Motion made by Steve Page to hold a working group strategic planning retreat Thurs March 31<sup>st</sup>, 1 p.m. to noon Sat. April 2; authorize expenditure to hire facilitator; pay for participation by Kent Heidt, pay for meeting room, lodging for working group members and dinner. Dave Peterson second, Motion carried by consensus. Motion did not include a limit on spending authority.
- Motion made by Mike Barthel to have Larry Mires check for the best meeting location; seconded by Marko Manoukin, motion carried by consensus.

### **Public Comment**

- Ruben Horseman said he would like to see the working group remain a local group on the Hi-Line. It seems it has become more political. He felt the working group was taking too much direction from DNRC. Ruben believes Ft. Belknap needs to have a Tribal Council member on the working group. He feels the St. Mary project will have a financial impact on Ft Belknap Compact. He is trying to convince the Fort Belknap Council to delegate a council member to be on the working group, and he will try to convince the Blackfeet Council too.
- Gary Anderson said it was his understanding that at the beginning of the process a member of the Ft. Belknap Tribal Council was supposed to be part of the group. The Council sent Randy Perez as their representative. Randy Perez said that this was incorrect. He represented the tribal water resources dept, but had not been directed by the tribal council to represent their interests.
- Harold "Jiggs" Main (member, Ft. Belknap Indian Community Council) said he originally thought the working group was going to be grassroots oriented and stay away from politics. He now reads in the paper that the state was seeking \$9.5 million through HB540 to settle the Ft. Belknap compact. This led to a lengthy discussion regarding the Fort Belknap compact and the \$9.5 million in HB 540 aimed at mitigation. Paul Azevedo noted that the working group is not the venue to address questions regarding the Fort Belknap compact.

### **Review Motions and Action Items:**

- Find out if USBR is open to having St. Mary working group present at USBR brainstorming meetings.
- Invite Congressional delegation representatives to attend working group retreat.
- Dolores Plumage will talk with other counties in the basin to see how they want to be involved or represented on the working group.
- Larry Mires will continue research on the working group becoming a legal entity.
- John Lacey made the motion to approve January 5 meeting notes without changes, Max Maddox seconded, motion carried by consensus
- Dave Peterson moved to approve expenditure of up to \$10,000 in working group funds to cover trip expenses and registration for members attending NRWAC conference. Mike Barthel seconded the motion and it was approved by consensus.
- Motion made by Max Maddox to extend the meeting to 3:30; John Lacey seconded; motion passed on consensus.
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Heidt, pay for meeting room, lodging for working group members and dinner. Dave Peterson second, Motion carried by consensus. Motion did not include a limit on spending authority.

- Motion made by Mike Barthel to have Larry Mires check for the best meeting location; seconded by Marko Manoukin, motion carried by consensus.

**Location and Agenda Items for March 23<sup>rd</sup> Meeting**

- Next meeting will be held in Havre, Wednesday, March 23, 2005 from 10:00 – 3:00.